

MAINE STATE LEGISLATURE

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One Hundred and Twenty-Fifth Legislature
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**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Tuesday
April 10, 2012

Senate called to order by President Kevin L. Raye of Washington County.

Prayer by Rev. Tim Wilcox of Fairfield United Methodist Church and Fairfield Center United Methodist Church.

REVEREND WILCOX: Thank you Mr. President, ladies and gentlemen of the Senate, staff, honored guests, and fellow citizens. It is good to be with you again here today. I invite you to be in the spirit of prayer. O Wondrous Creator, we thank You for this world You've made, this fine state, its splendor and its beauty, for the people that live here, and its wide diversity of backgrounds and occupations and ways of life. We thank You for the opportunity, indeed the privilege, to serve You in the ways we do here and in our communities. At the same time we confess we have not always been good stewards of this world You've made. We confess that we sometimes find ourselves pulled in all too many directions, between the desires of constituents, of party, of community, of various interests that are important to our state and our communities, in the business world and the government world, and in our personal lives in so many different ways. We confess we've not always been able to work across the lines that would divide us. Sometimes we've even worked against the common good. Yet, we appreciate Your grace which never gives up on us even when we might give up on You. We are grateful for all the hard work that has been done this session, and yet we know much work remains this week and in the month to come. As adjournment nears, we hope, give us the strength and the courage, the patience and the understanding to do what needs to be done with grace and humility in the tasks that You've called us to. We pause a few moments today to also remember those in our communities, in our families, perhaps in this very Body, who find themselves hungry today, sick today, homeless or thirsty, or hurting in their hearts today, people that we know facing foreclosure or who have lost a job, people who need medical attention but don't know how to obtain it, for those wanting work, and those working full time or multiple jobs yet not making ends meet. We pray, O God, that our example, both as public servants and as private citizens, will strengthen our communities and the relationships that are so vital to make them work. We also pause a moment now in silence to lift up those who could use our prayers today. O God, help us to be good stewards of this world You've made, of the public's business, of the communities to which You have entrusted us. Help us to continue in the Maine tradition of working for the common good while we balance the needs of personal responsibilities, reasonable ground rules for a well functioning society, and being a helping hand in times of true need and disaster. All these prayers we offer to You, we do so in Your gracious name. Amen.

Pledge of Allegiance led by Senator Garrett Paul Mason of Androscoggin County.

Reading of the Journal of Monday, April 9, 2012.

Doctor of the day, Robert Weiss, MD of Searsport.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-Concurrent Matter

Bill "An Act To Comply with the Health Insurance Exchange Provision of the Patient Protection and Affordable Care Act" H.P. 1098 L.D. 1497 (C "A" H-840)

In Senate, April 5, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-840)**, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-840) AS AMENDED BY HOUSE AMENDMENT "B" (H-925)** thereto, in **NON-CONCURRENCE**.

Senator **WHITTEMORE** of Somerset moved the Senate **RECEDE** and **CONCUR**.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, this bill is back. It's no better, really, than it was when it was here before. We really don't need this bill. This deals with the Affordable Care Act, sort of. It really does very little, but directs some of the things that the Superintendent of Insurance will already be able to do when we embrace Obamacare fully. It's been doctored some, but it's still deserves to die. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you Mr. President. May I ask a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **JOHNSON**: Thank you Mr. President. What is the definition of "the business of insurance" as referenced in paragraph 5 and in other places in this bill?

THE PRESIDENT: The Senator from Lincoln, Senator Johnson poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON**: Thank you Mr. President. Ladies and gentlemen of the Senate, I asked that question because it is still quite unclear, depending on your definition of that term, whether this bill, L.D. 1497, does or does not, with the amendment, meet the requirements of the federal rules. There is a significant gray area in here where it seems to imply that one still must meet all the qualifications of an insurance provider in spite of the facts that under the rules you cannot restrict being a navigator to just those who provide insurance. I think that we should be moving on to work on what really would help the people of Maine get an exchange going, as this bill was originally titled and meant to do. We should be taking a look at this bill, which does not accomplish anything beyond what is required under federal law in terms of establishing that the Superintendent of Insurance must set the training requirements and certification that is already established in federal law. That's really all this bill ends up doing. Stating the same. It manages in the process to introduce uncertainty, whether it complies or doesn't, with the requirements for that. Thank you.

The Chair noted the absence of the Senator from Aroostook, Senator **JACKSON** and further excused the same Senator from today's Roll Call votes.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Whittemore to Recede and Concur. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#459)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senator: JACKSON

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **WHITTEMORE** of Somerset to **RECEDE** and **CONCUR**, **PREVAILED**.

Off Record Remarks

Non-Concurrent Matter

Bill "An Act To Clarify Case Management Supervision Authority and Ensure Access to Case Management Services" (EMERGENCY)

H.P. 1244 L.D. 1692
(C "A" H-782)

In Senate, April 5, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)**, in concurrence.

Comes from the House, Bill and accompanying papers **INDEFINITELY POSTPONED**, in **NON-CONCURRENCE**.

On motion by Senator **McCORMICK** of Kennebec, the Senate **RECEDED** and **CONCURRED**.

Non-Concurrent Matter

Bill "An Act To Enhance Career and Technical Education"

S.P. 650 L.D. 1865
(C "A" S-518; S "A" S-530)

In Senate, April 9, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-518) AND SENATE AMENDMENT "A" (S-530)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-518) AS AMENDED BY HOUSE AMENDMENT "A" (H-896) AND SENATE AMENDMENT "A" (S-530)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **LANGLEY** of Hancock, the Senate **RECEDED** and **CONCURRED**.

COMMUNICATIONS

The Following Communication: H.C. 357

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
CLERK'S OFFICE**

April 9, 2012

The Honorable Joseph G. Carleton, Jr.
Secretary of the Senate
125th Maine Legislature
Augusta, Maine 04333

Dear Secretary Carleton:

The Speaker appointed the following conferees to the Second Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act To Amend the Law Regarding the Sale of Wood Pellets" (H.P. 1219) (L.D. 1610).

Representative WEAVER of York
Representative HARMON of Palermo
Representative PILON of Saco

Sincerely,

S/Heather J.R. Priest
Clerk of the House

READ and ORDERED PLACED ON FILE.

ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

The 97th Anniversary of the Armenian Genocide. On April 24, 1915, a campaign was launched by the Turkish regime of the Ottoman Empire against the Armenian people, resulting in the death of more than 1.5 million Armenians. Some of the survivors settled in the State of Maine, and their heirs have made significant contributions to the State. We join our citizens of Armenian heritage in remembering this event, and we express our deepest sympathy for the families of those who perished;
SLS 653

Sponsored by Senator BRANNIGAN of Cumberland.
Cosponsored by Senator: ALFOND of Cumberland,
Representatives: HASKELL of Portland, RUSSELL of Portland.

READ.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President. Men and women of the Senate, each year I consider it a privilege to mention and present this sentiment relative to the Armenian Genocide. What I have found helpful in having our constituents approach us every year and ask, as they remember what has happened in the past, that we also remember. For me it's also reminded me, and hopefully you, of what genocide is, what it means, and how deeply it offends. We've seen a lot of it. We're seeing it today. We see so much so far away that we tend to be numbed relative to it. Genocide is the killing, raping, starving,

driving out, and just inhuman approaches to humans. I'm glad the Armenian folks in my district and in our area are willing to come forward, willing to remember this, and I hope that we remember. As the sentiment says, 1.5 million Armenians were part of that genocide and offer them our sympathy and we're thankful that they are here with us today. Thank you, Mr. President.

PASSED.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Mainers of Armenian decent and ask that they please rise and accept the greetings of the Maine Senate.

Sent down for concurrence.

The City of Bath, on the occasion of its receiving the 2012 Great American Main Street Award from the National Trust Main Street Center. The award is given to communities that exemplify the use of the Main Street Approach in the revitalization of their traditional downtowns and neighborhood business districts and is given to 5 communities around the nation. This is the first time a Maine community has received the award. It is a testament to the success of the strong team of partners and the lively mix of independent retailers in this historic city, with its strong nautical heritage. We congratulate the good citizens of the City of Bath on being honored with this prestigious award;

SLS 654

Sponsored by Senator GOODALL of Sagadahoc.
Cosponsored by Representatives: CLARKE of Bath, KENT of Woolwich.

READ.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rise today to bring your attention, as well as honor, to the City of Bath, the volunteers, the community leaders, business owners, and the city officials for their great work and what they have accomplished. They are the 2012 Great American Main Street award recipients from the National Trust Main Street Center. This, frankly, is a big deal. This is the first time a community in Maine has received this award and, frankly, I think it goes to what we support here in this state and in this Legislature in terms of our downtowns. The Legislature has gotten behind the downtown center. The downtown center has played an integral role with the City of Bath to help the city revitalize over time. It has a flourishing Main Street, which they, and we, call Front Street. The businesses work together. They are collaborative. They work with the community organizations and the non-profit sector to make sure all ships rise with the rising tide in the city of ships. It's a wonderful city and the heart and the energy comes from their Main Street, which is Front Street. I am just so proud today to acknowledge them and thank them for what they are doing to our local economy and being a role model for other communities in our great state.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, I just want to take a moment and echo the comments of my good colleague, the Senator from Sagadahoc, Senator Goodall, and congratulate the City of Bath on this award. It really is an affirmation, I think, of the hard work that many of us have done in the Legislature over a number of years to recognize the critical importance of our Main Streets to our economic development and to recognize that they are the very essence of what Maine is all about. They are one of the great reasons that people come here, and come here to stay, and come here to enjoy what we have and very often take for granted. I especially want to recognize Roxanne Eflan, who is in the back here, who has been the sparkplug to keeping that program going. She really deserves a lot of the credit for the energy that the Main Street Program has exuded over the past number of years and testament to that is the number of growing communities that have been added to the list in the years that we've been here. We are grateful for the work that she and the Maine Development Foundation have done on behalf of the Main Street Program. Congratulations to the City of Bath.

PASSED.

THE PRESIDENT: The Chair would offer congratulations to those affiliated with Main Street Bath. Please accept the congratulations of the Maine Senate.

Sent down for concurrence.

Norm Elvin, of Augusta, who is the recipient of the 2012 Kennebec Valley District Citizenship Award from the Pine Tree Council of the Boy Scouts of America for his lifelong support of community and nonprofit groups. We extend our congratulations and best wishes to Mr. Elvin on his receiving this well-deserved award;

SLS 655

Sponsored by Senator KATZ of Kennebec.
Cosponsored by Representatives: BLODGETT of Augusta, FOSTER of Augusta, MALONEY of Augusta.

READ.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator **KATZ:** Thank you Mr. President. Men and women of the Senate, I rise today to recognize Norm Elvin. You all know Norm Elvin because there is one of him in every one of our communities; the one person who more than any other epitomizes the quality of "giving back to the community." Norm is the opposite of some people that we all know who has much but think that they deserve it. Norm Elvin came from a very poor upbringing to become a successful businessman. He's got a roofing company that's done very well. His second business, that perhaps some of you have visited, is the China Dine-ah out in China. This award is not in recognition for that. It's in recognition

for the other half of Norm's life, which is probably about 70% of his life, which is the time he spends in community service. Whether it's raising money to help build a new high school, spending years of his life chairing the YMCA Board, raising money and chairing the United Way campaign, or what he's being recognized for today, helping out with the Boy Scouts. Norm Elvin sets a standard of community service that the rest of us can only hope to approach. I'm proud to call him my friend. I'm glad that he's joined us here today. Thank you, Mr. President.

PASSED.

THE PRESIDENT: The Chair is pleased to recognize in the rear of the chamber Norm Elvin of Augusta. He is the guest of the Senator from Kennebec, Senator Katz. Would he please stand and accept the greetings of the Maine Senate.

Sent down for concurrence.

Joseph R. Phillips, of Bath, on the occasion of his retirement from the Maine State Museum after serving 20 years as museum director. We extend our congratulations to Mr. Phillips on his retirement and wish him well in his future endeavors;

SLS 656

Sponsored by Senator LANGLEY of Hancock.
Cosponsored by Senators: ALFOND of Cumberland, BARTLETT of Cumberland, BRANNIGAN of Cumberland, COLLINS of York, COURTNEY of York, CRAVEN of Androscoggin, DIAMOND of Cumberland, DILL of Cumberland, FARNHAM of Penobscot, GERZOFISKY of Cumberland, GOODALL of Sagadahoc, HASTINGS of Oxford, HILL of York, HOBBS of York, JACKSON of Aroostook, JOHNSON of Lincoln, KATZ of Kennebec, MARTIN of Kennebec, MASON of Androscoggin, McCORMICK of Kennebec, PATRICK of Oxford, PLOWMAN of Penobscot, President RAYE of Washington, RECTOR of Knox, ROSEN of Hancock, SAVIELLO of Franklin, SCHNEIDER of Penobscot, SHERMAN of Aroostook, SNOWE-MELLO of Androscoggin, SULLIVAN of York, THIBODEAU of Waldo, THOMAS of Somerset, WHITTEMORE of Somerset, WOODBURY of Cumberland, Representatives: AYOTTE of Caswell, BEAUDOIN of Biddeford, BEAULIEU of Auburn, BEAVERS of South Berwick, BECK of Waterville, BELIVEAU of Kittery, BENNETT of Kennebunk, BERRY of Bowdoinham, BICKFORD of Auburn, BLACK of Wilton, BLODGETT of Augusta, BOLAND of Sanford, BOLDUC of Auburn, BRIGGS of Mexico, BRYANT of Windham, BURNS of Whiting, CAIN of Orono, CAREY of Lewiston, CASAVANT of Biddeford, CEBRA of Naples, CELLI of Brewer, CHAPMAN of Brooksville, CHASE of Wells, CHIPMAN of Portland, CLARK of Millinocket, CLARK of Easton, CLARKE of Bath, CORNELL du HOUX of Brunswick, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, CURTIS of Madison, CUSHING of Hampden, DAMON of Bangor, DAVIS of Sangerville, DILL of Old Town, DION of Portland, DOW of Waldoboro, DRISCOLL of Westbrook, DUCHESNE of Hudson, DUNPHY of Embden, EBERLE of South Portland, EDGECOMB of Caribou, ESPLING of New Gloucester, EVES of North Berwick, FITTS of Pittsfield, FITZPATRICK of Houlton, FLEMINGS of Bar Harbor, FLOOD of Winthrop, FOSSEL of Alna, FOSTER of Augusta, FREDETTE of Newport,

GIFFORD of Lincoln, GILBERT of Jay, GILLWAY of Searsport, GOODE of Bangor, GRAHAM of North Yarmouth, GUERIN of Glenburn, HAMPER of Oxford, HANLEY of Gardiner, HARLOW of Portland, HARMON of Palermo, HARVELL of Farmington, HASKELL of Portland, HAYES of Buckfield, HERBIG of Belfast, HINCK of Portland, HOGAN of Old Orchard Beach, HUNT of Buxton, INNES of Yarmouth, JOHNSON of Eddington, JOHNSON of Greenville, KAENRATH of South Portland, KENT of Woolwich, KESCHL of Belgrade, KNAPP of Gorham, KNIGHT of Livermore Falls, KRUGER of Thomaston, KUMIEGA of Deer Isle, LAJOIE of Lewiston, LIBBY of Waterboro, LONG of Sherman, LONGSTAFF of Waterville, LOVEJOY of Portland, LUCHINI of Ellsworth, MacDONALD of Boothbay, MAKER of Calais, MALABY of Hancock, MALONEY of Augusta, MARTIN of Eagle Lake, MAZUREK of Rockland, McCABE of Skowhegan, McCLELLAN of Raymond, McFADDEN of Dennysville, McKANE of Newcastle, MITCHELL of the Penobscot Nation, MONAGHAN-DERRIG of Cape Elizabeth, MORISSETTE of Winslow, MORRISON of South Portland, MOULTON of York, NASS of Acton, NELSON of Falmouth, NEWENDYKE of Litchfield, Speaker NUTTING of Oakland, O'BRIEN of Lincolnville, O'CONNOR of Berwick, OLSEN of Phippsburg, PARKER of Veazie, PARRY of Arundel, PEOPLES of Westbrook, PETERSON of Rumford, PICCHIOTTI of Fairfield, PILON of Saco, PLUMMER of Windham, PRESCOTT of Topsham, PRIEST of Brunswick, RANKIN of Hiram, RICHARDSON of Carmel, RICHARDSON of Warren, RIOUX of Winterport, ROCHELO of Biddeford, ROSEN of Bucksport, ROTUNDO of Lewiston, RUSSELL of Portland, SANBORN of Gorham, SANDERSON of Chelsea, SARTY of Denmark, SHAW of Standish, SIROCKI of Scarborough, SLAGGER of the Houlton Band of Maliseet Indians, SOCTOMAH of the Passamaquoddy Tribe, STEVENS of Bangor, STRANG BURGESS of Cumberland, STUCKEY of Portland, THERIAULT of Madawaska, TILTON of Harrington, TIMBERLAKE of Turner, TREAT of Hallowell, TURNER of Burlington, TUTTLE of Sanford, VALENTINO of Saco, VOLK of Scarborough, WAGNER of Lewiston, WALLACE of Dexter, WATERHOUSE of Bridgton, WEAVER of York, WEBSTER of Freeport, WELSH of Rockport, WILLETTE of Mapleton, WILLETTE of Presque Isle, WINSOR of Norway, WOOD of Sabattus.

READ.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Langley.

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, Bath is going to be ringing in the awards today as I rise to recognize J.R. Phillips of Bath as he finishes his 20 year career at the Maine State Museum. I was reminded of the importance of the work that J.R. does this past weekend. I had Easter dinner at my house for our family. My father-in-law, who is 75, brought over some DVDs that had been transcribed from some old 8 mm film found in a relative's attic in Portland. These films were taken around 1927 on Boyden's Lake in Perry. On these films were my wife's grandmother in her 20's and her grandfather and her great uncle, who served in the Civil War. It was a real treat to see an actual person moving around on a film who had fought in the Civil War and her great-grandfather, J. Westley Ray, rowing across Boyden's Lake. What a treat it was for the people in my family to have these films as a record of our past, both for my generation and for my kids. In essence this is

what J.R. has done over the past 20 years, to be the keeper and part of our collective history in Maine; to preserve it, protect it, and promote it. Our cultural heritage is so important as it is still, in part, defines us today. I've only known J.R. for a couple of years, but our conversations have been very focused; preserve the record of our heritage for our citizens to enjoy and learn from. It takes a really special person to dedicate their life to such a worthy cause. It has not gone unnoticed. On behalf of the 125th Legislature, thank you, J.R. You will be missed. Enjoy the next phase of your life. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you Mr. President. Men and women of the Senate, I am happy to join the Senator from Hancock, Senator Langley, in offering my appreciation for the service to the State of Maine by J.R. Phillips. The museum, as we all know, here on the State House campus is a terrific treasure for the people of Maine. The people that work over at the museum, the treasures that they hold, the displays that come to life, and the way that imagination and creativity is used in presenting both the objects and the stories that are in the museum is absolutely marvelous. Mr. Phillips has done a terrific job over the years in leading the museum. I also would like to add, first of all, a piece of information. Last night, as we were closing the supplement to the budget, the members of the Appropriations Committee unanimously moved, at about 11:30, an amendment that was offered by the Representative from Belgrade, Representative Keschl, to continue the funding of the part-time extended hours position in 2013. Finally, I want to make sure people are aware, I know the current members of the Appropriations Committee but also the Senator from Cumberland, Senator Brannigan, the Senator from Cumberland, Senator Diamond, the Senator from Androscoggin, Senator Craven, that in the committee we have decided, in honor of Mr. Phillips' retirement, that we will be placing the J.R. Phillips Award for the interested party that spends the most time advocating, in a quiet and clear way, in the committee for the passion and the interest that they have advanced. Mr. Phillips has spent many hours subjected to the defense sometimes of, unfortunately, nicks and cuts in the variety of budgets that do add up over time. He has been, in a quiet way, always ready to answer any question as long as we're there to make sure that the museum is represented. We will go forward with the J.R. Phillips Award for the member of our broader team that carries on that tradition. I want to congratulate you in your retirement and great success.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Alfond.

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I also rise with the Senators from Hancock, Senator Langley and Senator Rosen, to appreciate Mr. Phillips. For the last 4 years I've sat on the Education and Cultural Affairs Committee. I must say it was probably a good thing that we didn't see Mr. Phillips in front of the committee as much because we didn't take as much out of the library as we have in the past. I'm sure he was happy not to be there with us and we were happy not to see him, not because we didn't want to hear about all the incredible things that were happening in the library. As previous speakers have said, he's quiet, he's

confident, but he also is very comfortable fighting for all of the funding at the library. Last night's amendment was well received, I think, across the state because the more that our library can be opened the better for the state and better for the people of the state. We are creating quite a cultural trail across the state for people coming in to enjoy all of our cultural experiences, and the Maine State Museum is one of them. I also would state that my lasting images of what Mr. Phillips' work will be are the school buses that arrive here in Augusta almost daily and all the students that get to take advantage of maybe the first time in the capital, maybe their first experience of ever being in a cultural institution, and seeing, hopefully, images and dreams come alive. I thank Mr. Phillips for his heart, his soul, and everything that he's put into his profession for the last 20 years. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I rose just a few minutes ago to honor a great street. I now will honor a great resident of Bath and thank him for his service to the museum and echo the remarks that were said prior to me. The institution of the museum is critical to our educational system and to our culture. I just want to thank him and wish him well on his retirement.

PASSED.

THE PRESIDENT: The Chair is very pleased to recognize in the rear of the chamber J.R. Phillips and ask that he please rise and accept the greetings and congratulations of the Senate.

Sent down for concurrence.

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Laws Pertaining to the Maine Economic Improvement Fund"

H.P. 1393 L.D. 1885

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-893).**

Signed:

Senators:

RECTOR of Knox
JACKSON of Aroostook
MARTIN of Kennebec

Representatives:

DOW of Waldoboro
DRISCOLL of Westbrook
HERBIG of Belfast
HUNT of Buxton
TUTTLE of Sanford
VOLK of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-894).**

Signed:

Representatives:

PRESCOTT of Topsham
GILBERT of Jay
NEWENDYKE of Litchfield
WALLACE of Dexter

Comes from the House with the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-894)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-894) AND HOUSE AMENDMENT "B" (H-923).**

Reports **READ.**

Senator **RECTOR** of Knox moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-893)** Report, in **NON-CONCURRENCE.**

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you Mr. President. Men and women of the Senate, one of the most important innovations, I think, that took place in the state of Maine in the last, what is it, eight session of the Legislature was the creation of the Maine Economic Improvement Fund. What that has done is it has allowed our research universities, the University of Maine and the University of Southern Maine, in conjunction and collaboration with the other satellite universities and other schools around the state and other institutions, such as Bigelow Labs and the Franklin Aquaculture Center and others, to create an infrastructure and compete competitively on a national basis to draw federal dollars and research dollars, combined with our own, to enhance the economy of the state of Maine. Currently between 15 and 20 new patents are applied for per year as a result of the work that is going on at the universities. Two to three hundred collaborative projects are occurring with private enterprises around the state, leading to innovation and problem solving and allowing us to have new patents and licenses that generate jobs and revenue for the state of Maine. We were very mindful in the way this program was set up. We set it up so that we were not just an inch deep and a mile wide. We concentrated our efforts where that research was in institutions that had the necessary national and international reputation, that had the faculty, the infrastructure, the outreach, the capability of commercialization and licensing, and the ability to manage grants in a way that was as effective as possible. Before our committee we had a bill that said there was also some research going on

elsewhere and we'd like to move beyond a simple memorandum of understanding but be sure that there were dollars that would go to those smaller campuses so that they can pursue research as they see fit. The committee decided that that was a reasonable request and we came to an agreement that we would phase in so as not to disrupt the current stream of revenue going to the universities and the commitments that they had already made. That's the Majority Report that you'll see and it is that Majority Report that I would ask you to support and join the three Senators on the committee in supporting that report in non-concurrence. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, there is nothing that I can say in disagreement with the previous speaker except that my concern is that the smaller colleges are not getting their fair shake. I especially am concerned about the Marine in Machias under Dr. Beals. We could do so much. The other states, if you don't have a shoreline you can't do much with medicine from the ocean and all of that. I just was speaking to Mr. Ward, whose parents were good friends of my parents and I know them very well. There is a study being done and there is a request that perhaps we set up another committee to allow campuses that are not doing scientific fact related, perhaps take Farmington for an example, where they are doing education, and be able to start to do some research based on things other than just scientific fact. In other words, go out of the seven areas and find out what the universities and small campuses' forte and if there is a way to get grants to stress that. He had suggested he would love to see another committee set up. I said I wish that was in this bill. It's impossible for me to vote against this bill, but at the same time I want it to be on the floor that we need to remember that there are other colleges and parents spending good money to send kids to other schools and we need to be sure we have all the campuses working together. I think we really need to really begin to look at the small colleges, find their forte, and be sure that we begin to build on that so that a college of education, a college of psychology, and all kinds of different things are included. Yes, we need to look at faculty. Yes, there needs to be doctors. We are missing a lot with Dr. Beal in Machias. I cannot say enough about what he does under the marine research for that. We need to be sure we don't become too centralized on seven. I would love to see a Resolve put in next time around. I won't be here for you. I think we really do need to look at a system-wide study and come up with a Resolve to continue the good work we've done in those seven areas and take another look. Jake Ward has some great ideas. I certainly will support this as it is, but we need to move forward and not rest on our laurels. We've done a good job, yes we have. I do not want it to be said that we haven't. There are other schools that parents are sending their kids to and we want to make sure that they are top of line too. We do not want to forget Machias and what they are doing for the marine resources, which is a large source of income for the state of Maine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you Mr. President. Men and women of the Senate, I simply want to take the opportunity to express a

different point of view from the one that was previously expressed. R and D funding in Maine, and Maine's initiative over the last 12 years or so, really has made significant progress. We all know that even though we've been able to increase the level of resources going to R and D, it is still well below the targets that were established in the late 1990's. We really, I believe, should hold as much as possible to a policy of putting a rigorous threshold out there for any initiative and any project to allow the best opportunities for research to surface and come to the top. From my point of view, I do not support apportionment of any kind, the current level or an expansion. I think that we should have an atmosphere in the state, and if we're talking about this particular fund within the university system, where all proposals are invited, all compete fairly, whether it's through a peer review process or whatever else, and those that are strongest, those that have the greatest value, those that are the best of the best should be the ones that are ultimately funded. The idea of beginning to apportion based on geography, or any other reason, I think moves us away from the central theme which should be an open and fair competitive process. We certainly may have put in some reforms over the last few sessions to move in that direction regarding the biomedical fund and several other categories from the original seven focus areas. That has been quite successful where we have combined and everyone has competed on a fair and more level playing field. I simply want to express that point of view. I understand the posture that we're in. I will be supporting the Majority Report because if the options before us are the Majority Report and an alternative report, the alternative certainly will not take us in a direction that we need to go. As a general policy within the university system, it's one member's feeling that open and fair competition within the system is the way to go. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Goodall.

Senator **GOODALL:** Thank you Mr. President. Men and women of the Senate, I just rise today to join with the good Senator from Knox and really emphasize the importance that we have a sound funding mechanism and hopefully increase in the near future and ongoing the amount of R and D that we have going to our flagship university, the University of Maine located in Orono. However, I believe this balance strikes the right balance because the good Senator from York pointed out some very good programs that are taking place in the University of Maine at Machias. That being said, it's critical, and I experienced this to a certain degree when I was at the University of Connecticut in a research program, that we have the infrastructure in place in one core university to leverage federal dollars and attract qualified and exemplary professors and researchers, so that we're generating economic activity for our state through commercialization of products and through spin-off into new businesses. We know that we can succeed in this area if we fund it. My concern is that if we were ever to start diverting dollars, without a real rationale, to other universities then potentially we'll weaken the dollars that we're investing currently at the university. Lastly, Senator Rector and I took a pledge, since we're both on the Maine Economic Growth Council, to try to promote our findings every chance we have. This year the good Senator from Knox chairs the commission. We gave a red flag on R and D. We have made a commitment on the Maine Economic Growth Council to pursue as a state, we hope, research and economic develop dollars to R and D at 3% of

our growth domestic product. Currently we are only at 1%. We have much more to do. We know that if we invest in this area, both in the private sector as well in the public sector, we can create more jobs and bring more economic vitality to the state. I just wanted to add those comments as well. I would urge you to support the Majority Report. Thank you, Mr. President.

On motion by Senator **THOMAS** of Somerset, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm going to vote against the motion in front of us, not because I'm against research and development but I don't think that 3% pittance going to the other campuses is enough. I believe that monopolies don't work. I believe they don't work in research and development. I believe that we've got some other campuses that are doing some fine work and we need to support them. Given a choice, I would rather that we were putting more money in research and development. I'm not crazy about bond issues, but I'll support a bond issue for research and development. I believe that we're doing some good work at the University of Maine in Machias and the University of Maine at Presque Isle with research. I believe Maine Maritime does a lot of good work and I think we need to support them. I think that 3% is not enough and if given the opportunity I will vote for more; given the opportunity to vote for the policies that the Senator from Hancock, Senator Rosen, talked about, I would prefer that over the system that we have now. I don't believe monopolies work in business, in education, or in research and development. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, there have been some very good points made all around today on this particular piece of legislation. I'm going to support the Majority Report out of respect for the system because it's something that they have agreed to, as well as the bill sponsor. I do have concerns. The reason I have concerns is that I've never really been interested in micromanaging the university system as a whole. I think that we really should stay out of their business as much as we can. We have a new Chancellor there who so far, I think, has done an outstanding job dealing with some very difficult situations right off the bat. I think that we have a strong board at the system and leadership that is very good. I think that, in general, we should try to not get involved in micromanaging. I also think that there is a phrase that is often used, "All things to all people." Everybody knows that my Senate District includes the University of Maine flagship campus. There is no question that that is the research institution for the state. Something that a lot of people is not aware of is that they have the infrastructure there, they have the researchers there, and they have the ability to leverage funding that generally the other institutions are not able to do. We need to recognize that as we take money from that research institution what that means is, ultimately, less dollars for the state as a whole because that money is not as easily leveraging other funding sources. I think

that we just need to understand that when we move forward on pieces of legislation where we don't really necessarily have all the facts and understanding of how to best get funding for our research dollars that we're putting in. I believe in maximizing what the State puts in and I think that we're better off letting the people in the university system control that because they really have a better understanding of how to do that. I'm going to support the Majority Report, but I do have concerns going forward and I hope that all of you, after I'm gone from this Body, will really take the time to investigate thoroughly maximizing the money that we put into research and development. I also hope that we do a better job going forward for research and development because before my time there had been incredible strides made in research and development, but lately that has not happened and it really concerns me. We point to other states and how they succeed. Other states that are succeeding are putting many hundreds of millions of dollars into research and development. I think we all need to recognize that if we really want to see innovation occur in our state that we've got to back it. Out of respect for the system and out of respect for the Senate President, I'm going to support the pending motion, but I just hope that people look at this very thoroughly in the future before any additional funding and we try to micromanage this further. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Snowe-Mello.

Senator **SNOWE-MELLO:** Thank you Mr. President. Ladies and gentlemen of the Senate, I stand here today very much wanting to vote no, wanting to support my clammers, wanting the 10%, and hoping that would go to help Dr. Beal and our marine resource industry. As the Senate Chair for the Marine Resources Committee, I really feel very strongly that we need to put more investment into that area. On the other side, I say to myself that this committee has worked very hard. The sponsors of this bill have negotiated and worked diligently to come out with the report that they have. Frankly, I think they were surprised they got the 3%. I think the 3% is good. It's very good. Would I like 10%? Of course I would. I think the responsible thing to do is to support the Majority Report. Hopefully my good friend, Senator Langley, will meet with the Chancellor this Summer and see what we can do to look into how we can help in more R and D in the area that I believe is important. I think that I certainly don't want to risk the good work, like my good friend from York County, Senator Sullivan. I heard her loud and clear. She and I many times are on the same wave. I agree with the good Senator. I think I simply cannot risk the good work that has been put into this report. I want to thank them for what they've done. Let's move on. Let's see what we can do in the future to help the marine resource industry and the clammers, in particular. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen, I'm slightly conflicted on this legislation. Obviously, there has been work to arrive at a bill that everyone can support. I support the Majority Report. I also believe that we need to get to a point moving forward where we do two things to foster growth in research in the state and help get our economy back on track. We need to insure that all people that have great research ideas,

the infrastructure to support that research, and have an opportunity to receive funding for it. I'd like to see that at a later time and that we work to make this entire process more of an open competitive application process for institutions. I think that an important part of that will be the need for them to demonstrate that they have the necessary infrastructure. There is an important differentiation here. We've got already the involvement of some of our smaller campuses and universities in work under these grants through sub-awards from University of Maine grants in which the University of Maine system, with the infrastructure they have, is appropriately administering the grants received. The other institutions are benefiting from the university taking that role in administering the grants and still receiving money to do some of the research underneath them and to use the expertise of their staff. The other aspect we need, as was pointed out earlier, is to get closer to that 3% recommended funding in the state for research. I'm very glad that my colleagues on this side and the other side of the aisle have both expressed an interest in increasing the funding for research because I'll be glad to remind you of that later when we discuss ways of cutting revenues. I hope that you will all work in future legislatures to increase the competitive aspect and the transparency of the process for awarding applicants from all of our educational institutions and from private industry that operate independent research and involving students as well in the process, a number of graduate placements. At Bigelow, for instance, a lot of graduate work is going on. Those kinds of things deserve an even playing field in applying for these grant monies in the future. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I have been given a note that the Majority Report does not include the Maine Maritime Academy. That does worry me. It is one of the top maritime colleges in the nation and the very fact that we would not somehow include them with the University of Maine in research. They certainly have the ability, the faculty, and all those things to do that. I don't want to derail this, but I would hope if that information is correct, that it is not included, that somehow, through the miracles that can happen here in the two Chambers, we would add the Maine Maritime. It does everything we talk about as far as good jobs and excellent reputation and all of that. It should be included. I may be wrong on that, I know it's not actually part of the land grant system with the university flagship, but we need to be sure that they are not left out. It's a valuable asset. Thank you.

The President requested the Sergeant-At-Arms escort the Senator from Androscoggin, Senator **MASON** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **GARRETT P. MASON** of Androscoggin County.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Washington, Senator Raye.

Senator **RAYE:** Thank you Mr. President. I rise as the co-sponsor, the chief Senate co-sponsor, of the measure before us just to give you a little history. Representative Tilton and I have been working for a number of years to advance research and development at the smaller campuses. As has been noted a number of times during this discussion, the Downeast Institute for Applied Marine Research at Beals Island does enormously valuable research for Maine's marine resource economy. Their reach is much broader than many Senators may expect, up and down the entire coast of Maine. It is something that I believe deserves to be advanced and increased. What we want to do with this bill, the reason that this bill was brought forward, is we want to address the inequity. We do not want to damage or undercut current ongoing research and development that may be occurring now at the University of Maine and the University of Southern Maine. Past efforts to advance legislation of this kind have not succeeded. What we do have is an agreement, an MOU, signed by a previous Chancellor currently being honored by the new Chancellor that sets aside a very small amount, I believe it is \$100,000 or so, that the smaller campuses can compete for. That's not enough. That's why we brought this forward, in an effort to increase that amount and also an effort to put it in statute so that it won't be subject to the whim of a future Chancellor who can simply yank that MOU. Ten percent, I believe, would result in damage to current ongoing research and development that has value all across the state, including my district and including the district of probably every Senator in here, in rural Maine as well as urban Maine. The 3% in the Majority Report more than doubles the amount of money that will be available to small campuses. The principle behind it, as has been noted, I don't think on the Floor but outside the Chamber, by the Senator from Knox, Senator Rector, is much like EPSCoR, which is the national program that exists to insure that small states like Maine will be able to compete for R and D. Otherwise it would all go to the big three or four nationally. We're trying to put that same principle, which is in federal law, into state law so that our smaller campuses will be in a position to compete for some of that funding. I am, like the Senator from York, concerned that Maine Maritime Academy is not part of the motion before us. In the spirit of compromise, I know the House has one view and we have another, the report before us with the 3%, there is another version that is 10%. Perhaps the happy medium is somewhere in the middle. The critical flaw is doing it all at once. Going to 10% all at once would be, I believe, potentially devastating to very important ongoing research at the University of Maine. Even though we are here at the very end of the session, hopefully only a day or two away from completing our work on these bills, I believe it may be appropriate to pause for a moment to see if this can be effected in a way that would include the Maine Maritime Academy and perhaps massage the percentage slightly, but certainly not to do it all in one fell swoop, which I believe would be very damaging to Maine's economy and our ability to accrue the economic engine that can result from research and development.

On motion by Senator **COURTNEY** of York, **TABLED** until Later in Today's Session, pending the motion by Senator **RECTOR** of Knox to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-893)** Report, in **NON-CONCURRENCE**. (Roll Call Ordered)

The President Pro Tem requested the Sergeant-At-Arms escort the Senator from Washington, Senator **RAYE** to the rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from Androscoggin, Senator **MASON** to his seat on the floor.

Senate called to order by the President.

Senate at Ease.

Senate called to order by the President.

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

Senate As Amended

Bill "An Act To Restructure the Department of Health and Human Services"

S.P. 664 L.D. 1887
(C "A" S-533)

READ A SECOND TIME.

On motion by Senator **ALFOND** of Cumberland, **TABLED** until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (3/30/12) Assigned matter:

SENATE REPORTS - from the Committee on **TAXATION** on Bill "An Act To Restore Equity in Revenue Sharing"
S.P. 635 L.D. 1835

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-501)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - March 30, 2012, by Senator **COURTNEY** of York

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 30, 2012, Reports **READ**.)

Senator **COURTNEY** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On motion by Senator **HASTINGS** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator **Alfond**.

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, let me do some hopeful education and more about L.D. 1835. This Legislature has examined many programs over its year and a half plus since we've been up here. Many of them have been updated. What I hope is that every Senator will think long and hard about this vote and want to support a bill where the major intent is to fully restore revenue sharing. Let me state that again. The major intent of this bill is to fully restore revenue sharing. The Maine Municipal Association and I worked on this bill and amendment because municipalities across the state want two things and these two things very strongly. One is for revenue sharing to be fully funded. The other is for revenue sharing to not just be an artificial number that was picked in the 1990's, but actually something that has statewide significance. That is why, working with MMA and their policy committee, we thought it would be best for revenue sharing to be at the statewide mill average. The document that will be distributed, and I'll have to talk a little bit longer because it's not out yet, showcases what happens in all 35 districts with L.D. 1835. The far left column is what is happening currently with \$94 million being distributed across the state. For the last three or four years revenue sharing has been raided, or has been used, by the General Fund in the tune of somewhere between \$35 million to \$40 million for almost four years now. I don't need to tell all of you what happens and what occurs to your municipalities when fewer dollars comes back to your communities. It puts more pressure on all your budgets and puts more pressure on the property taxpayers of all of your communities. That first column is \$94 million. The second column is \$138 million. What is the significance of \$138 million? The \$138 million is fully funding revenue sharing to where it should be, and that is 5% of all revenues coming into the State of Maine. With L.D. 1835 that would be your new total in your Senate District. As you can see from the far right column, every single Senator comes out with a net advantage in a fully funded revenue sharing system.

The amendment that the committee put onto this bill is one that I think is important in many ways because what I've learned up here is implementation is key. The implementation of any change has to be done thoughtfully. What the amendment does is two things. L.D. 1835 will not go into effect at all until we fully fund revenue sharing. Until we get to \$138 million L.D. 1835 does not get triggered. As soon as we, as a state, make a commitment again to revenue sharing, then L.D. 1835 goes into effect. Once that goes into effect, we said let's take four years to go from the current 10 mills to the statewide average. Approximately, we will go from 10 mills to 10.5, from 10.5 to 11, 11 to 11.5, to eventually where we get to the statewide average. I think every Senator probably hears a lot from their municipalities. When the policy committee of MMA reviewed this bill and amendment, the support was overwhelming. Four or five to one. Why? I return back to two simple things. One is that they want revenue sharing to be fully funded and, two, they believe that the public policy in this bill is right for the state of Maine. We should have a mill rate that is tied to a statewide economic average, which is the statewide mill rate. Let's remove all of the uncertainty. Let's get revenue sharing back to be fully funded. Let's do the Revenue 2 sharing to a statewide average. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hastings.

Senator **HASTINGS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise in opposition to this report and would urge that you vote in opposition to the same. The purpose of this bill was not brought to us, to the Taxation Committee, for the purpose of bringing back revenue sharing initially. The purpose of the bill initially was to raise the mill rate that would qualify a town or a municipality for Revenue 2 under the existing allocation. I think my concern with this bill is that it does not address the real flaw in the Revenue 2 program. The Revenue 2 program, as I understand it, takes a portion of revenue sharing and allocates it, as the original intent was, to provide some additional funding to service center communities around the state, on the concept that those communities have to bear additional costs and infrastructure in order to provide the services for surrounding communities. There are some truths that those service centers exist. The way Revenue 2 is originally proposed was simply to set a mill rate, saying that it assumed that only service center communities would have a high mill rate or that one followed the other. What's really happened is that they set a mill rate trigger of 10 mills as the trigger to qualify for Revenue 2. It's really simply, in many cases, just rewarding high spending communities that may or may not be service center communities. If you look at the existing list of those towns receiving Revenue 2, it is the majority of the towns, some very tiny little towns, receive Revenue 2. I found, by the way, under the bill as originally proposed, in my entire Senate District there is not one winner under this bill and 11 out of 14 losers. Even the bill before us today, by postponing the effect of the law until revenue sharing is fully funded, only masks that effect that it may have on your communities that would lose money. If we left things as they were, the mill rate as it is, and fully funded revenue sharing, your communities and your districts might well do better than as shown on the list that was handed out today by the Senator from Portland, Senator Alford. I think it will be fair to say that if we fully funded revenue sharing my district, for instance, which is shown

to gain by \$812,000 in this list, that \$812,000 would be a good deal higher. Ladies and gentlemen, I think you have to take a careful look at the numbers. I think by putting on the amendment you're not seeing, it's concealing, the effect. There is an effect. If you believe that we should reward communities for a high mill rate, and that is the only criteria for receiving Revenue 2, then this is probably an improvement. It does set the bar higher. It does not recognize the basic purpose. It doesn't fix the problem that using mill rate to provide additional funding for service center communities is not the policy to be following. We need to find other criteria for it. I suspect that the Maine Municipal Association was supportive of this amendment because it does do just what Senator Alford indicated. It does push us towards fully funding revenue sharing. That's almost a different issue than dealing with, I think it is a different issue, the Revenue 2 and its purposes and policies behind it. Ladies and gentlemen, I would urge you to not support the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Alford.

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, just a couple of things. When you look at MMA's 2012 Legislative Policy Committee, there are two people from every single Senate District. Again, this policy committee who is reviewing this bill, these are the people on the front lines in our communities, they overwhelmingly support this bill, four or five to one. I think that, to me, was a strong indication of what our municipalities want, fully funding revenue sharing. Revenue 2, like the good Senator from Oxford said, was established to help those communities that have significantly higher mill rates. Let me run down some of these significantly higher mill rates. Livermore Falls - 21.14, Mechanic Falls - 14.67, Ashland - 15.19, Van Buren - 20.85. Let's stay in Aroostook for a second. Wade - 16.8, Stockholm - 15.33. I would hardly consider any of these communities service center communities. These are just communities that have high mill rates. Let's go to Oxford for a second. The good Senator from Oxford just spoke about in his communities, and maybe his Senate District, there are some winners. He said 11 out of 13, in his opinion, lose or stay flat. I'm not sure about that. I'll talk about some of them. Dixfield - 16.21, Mexico - 20.96, Rumford - 19.95, Sumner - 15.1, Bangor - 18.27. We're talking about moving the mill rate from 10 mills, which is where we are right now, to 11.76 over four years, and only if revenue sharing is fully funded. The policy committee of MMA has spoken pretty loudly. We have a system that we have not been fully funding for four years. I don't know whether it's going to be in two years, four years, or eight years that we finally get to fully funding revenue sharing. At the same time, you would think that the folks around MMA, who think about probably this line item more than any other line item in state government, have thought about the consequences, up and down in every county and every town, to figure out whether this is the right move for our state. They have resoundingly said yes. I guess I am hopeful that we will join the strong committee vote and support the motion and move this down to the other Body. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS**: Thank you Mr. President. Ladies and gentlemen of the Senate, numbers are funny animals. You can make them sing almost any tune that you want them to. You can leave some numbers out and they'll sing one tune. You can add some numbers in that are irrelevant and they will sing another tune. This bill has two parts to it. Two completely separate issues. Should we fully fund revenue sharing? Yes, we should or we ought to do away with it, one of the two. If there is one tax that hurts the poor people in my district more than any other it is probably the property tax. I'd love to see it go down. I'd love to see us fully fund revenue sharing, but to fully fund revenue sharing and then take the bulk of that money and give it to communities that can't control their spending is a policy decision that is going to wreck havoc with the whole state. We don't need to create incentives for people in the state of Maine to spend more tax money. We spend plenty now. Sure some communities are going to come out ahead. There are communities in my district that will come out ahead, but there are communities in my district that get hurt under this proposal. The communities that get hurt in my district are the communities that watch their spending, that are careful with their spending, that don't waste money. To create a tax policy where we reward wasting money is absolutely the wrong way. Then to mask it by putting more state money into a program so that we can mask this is almost like putting a little bit of poison in something that is good. I can't support it. I'm sorry.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Courtney to Accept the Majority Ought to Pass as Amended Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#460)

YEAS: Senators: ALFOND, BARTLETT, BRANNIGAN, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFSKY, GOODALL, HILL, HOBBS, JOHNSON, KATZ, MARTIN, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

NAYS: Senators: COLLINS, HASTINGS, LANGLEY, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITEMORE, THE PRESIDENT - KEVIN L. RAYE

EXCUSED: Senator: JACKSON

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **COURTNEY** of York to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-501) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (4/9/12) Assigned matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Phase Out Dirigo Health and Establish the Maine Health Benefit Exchange for Small Businesses and Individuals"

H.P. 1099 L.D. 1498

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-867)** (6 members)

Tabled - April 9, 2012, by Senator **ALFOND** of Cumberland

Pending - motion by Senator **WHITEMORE** of Somerset to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, April 5, 2012, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 9, 2012, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN**: Thank you Mr. President. Men and women of the Senate, here we are with one of the more important bills of the session. We're just holding up the work that has been done to try to get ready for a health exchange and to try to really do something about our healthcare. We have been working on this in this Legislature and before, a great deal. Two years ago we had a group put together that included people from the Insurance Committee, people from Health and Human Services Committee, to help decide about a health exchange. We now like to call it a health marketplace because it's more friendly. It's supposed to be friendly, to help people to get insurance, to help get around. As you know, earlier today there was a vote to not have an insurance exchange, at least not now, and if not now, when. We are supposed to be involved in this. We've got a lot of money from the federal government to work on this. A great deal of work has been done. We had a committee that met in the Summer. Many of us were there. The President was there. We came to an agreement as to how an insurance exchange should look. It would have an independent board that would run it. It would be friendly. It would have the ability to help people on the phone and in person and on the computer. That was questioned by the present Administration and they appointed a group, another group, to look at it, to be an advisory group for the

Governor. They came up with another approach, one which would be run totally by his Excellency and would not have a great deal of friendliness or input from our point of view. As you voted this morning, that is out also. We are wasting time. We're wasting money. We're putting ourselves in jeopardy relative to healthcare in the future. The exchange must be done, by federal law, by next January. We don't meet again much before next January. If we're not up by next January the federal government will step in and they'll put their stamp on it. We can hope that all this dies, that we will have a way of getting a reprieve and being able to get something started that is local and Maine based, Maine developed. To vote against this is to vote to put in jeopardy our people in this state, all the people who don't have insurance, and there are many. To put people back in the throes of fear. Fear that they can't change jobs. Fear that they will lose their insurance. Fear that they will have a big, big health problem and can't handle it financially. We have an opportunity now to embrace a way in which people will not have that fear and will have the ability to be cared for if and when they have illnesses. To vote that out, to vote against that, to say no right now, I say, is wrong. Wrong for our people. It's wrong for our state. I don't know whether you've read, but the Chamber of Commerce, in this little piece that we get every week, are saying that we're missing an opportunity. This is wrong, they say. The Chamber of Commerce. People who really look at business and they say we're wrong. I hope that you will support the Minority and will allow us to get to work in putting an exchange together. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Whittemore.

Senator **WHITTEMORE:** Thank you Mr. President. Ladies and gentlemen of the Senate, with all due respect to my fellow colleague, Senator Brannigan, I do disagree. There is no need to rush forward with an exchange for our state at this time. Thirty-two states, including ours, have not created an exchange. The current law that requires each state to have an exchange has been heard in the Supreme Court. The decision that will determine its fate will be announced in June or July of this year. If the decision is favorable for the ACA, and we are mandated to create an exchange, we can do so at that time. Federal grants available to set up an exchange had a deadline of June 29th of this year, but the feds just issued new guidelines allowing applications to the end of 2014. Why would we want to spend approximately \$55 million of the taxpayers' money and add to an already out of control national debt for our children, grandchildren, and great-grandchildren if the court decision is in favor of repeal of the ACA? Makes no sense to me, nor would it to the taxpayers. P.L. 90, which became law last year, has already created significant positive changes for more than 85% of the small group market and will have the same impact for the individual and high risk group in the private market later this year and into next year. P.L. 90 does, and will continue to, address the private and small group markets, which the exchange is intended to do under the ACA, and will do it without increasing more debt and giving an open checkbook to those who are responsible for the out of control costs of healthcare. It is premature to move forward with L.D. 1498 at this time and I urge you to vote in favor of the motion Ought Not to Pass. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Woodbury.

Senator **WOODBURY:** Thank you Mr. President. Senate colleagues, I don't know how we got to this place in politics where the Affordable Care Act became the litmus test for one's entire political philosophy. As politicians, we're apparently supposed to think that we either love or hate it in its entirety. That's regrettable because it stops us from drawing on the best of its vision and working together to improve those parts that could be made better. I find the case for implementing a competitive market exchange for private health insurance products absolutely compelling. What we should be doing, in my opinion, is conjoining the market reforms that were enacted last year with the ACA's vision of an open, competitive, and easy to use marketplace for private health insurance products. This issue right here, this idea of an open, competitive, and easy to use marketplace for private health insurance project, is where we should be finding the sweet spot of common ground between political philosophies on the right and left. The exchange that we are debating here today is a place where health insurers can conveniently offer and market their products, where consumers can conveniently obtain information about these products through an easy to understand template, where sales and purchases can be transacted more easily by insurance companies and consumers, and where all of these private insurance products can be offered at an affordable price to households in any economic circumstance. This idea makes so much sense to me.

How would the exchange fit into the big picture? As you know, our system of healthcare financing in the United States is multi-faceted. It has four major market sites. First is Medicare, which covers most seniors, those over age 65. Second is Medicaid, which covers individuals and families with very low incomes. Third, we have large employer plans, which covers much of the working population and their families. Fourth, we have private health insurance available for purchase by individuals and smaller businesses. It's, of course, this fourth category where the exchange comes into play. There are two critical things I want to emphasize about the exchanges and why I think they have so much potential to improve our private marketplace for health insurance plans. The first is the convenience they are intended to provide for both buyers and sellers of health insurance products. Let's talk about the sellers first. A big reason I supported the market reforms last year was because I wanted our regulatory landscape in Maine to be relatively mainstream by the national standards so that a larger range of insurance companies would want to come to Maine and participate in our private insurance market. State exchanges are now being set up around the country, right now. Insurance companies are developing products that they hope to sell in these exchanges based on the new national standards. If we aren't building our exchange in Maine we are missing out on this important transitional period when this new national landscape, and all these emerging national insurance products, are taking shape. We should be part of that, not ignoring it. Now we'll turn to the convenience for consumers. The key point for consumers is that the exchanges are intended to provide clarity in comparing one insurance product to another and convenience in purchasing an insurance product. Exchanges will have a clear template that describes the coverage of each plan offered, the services covered, the deductible amounts, the co-payment amounts, and the premium costs. This transparency in comparing across plans,

I believe, will not only help prospective buyers but will make the whole market work more effectively and more competitively across insurance companies as they compete for our business. In my view, both the convenience and the clarity offered by the exchanges are major reasons to move ahead with this. The fact that this transition is happening nationally is forcing insurance companies to redevelop their insurance products and to reinvent their national marketing plans under the new national guidelines. We should be facilitating this as much as we can, not turning our back to it.

I said I had two critical things I wanted to emphasize. The second is that the exchange will make possible, really for the first time, an affordable private health insurance product for individuals and households in any financial circumstance. The average per capita cost of healthcare in the United States is about \$8,000. There is a lot we should be doing to contain that cost. That goes without saying. I raise the national cost of healthcare in this discussion because it means that health insurance products that cover anything of relevance will implicitly cost quite a lot, no matter how we structure our private market. Right now eligibility for financial assistance with the high cost of health insurance is administered basically as a Medicaid eligibility cliff. If you earn just less than the Medicaid eligibility threshold, then you receive full health insurance coverage that may be worth as much as \$8,000 per person on average at almost no cost to you. If you earn just above the Medicaid eligibility cliff, you receive zero help at all with the cost of health insurance. You basically fall off a cliff. At a minimum, this financial structure creates an incentive for people not to take jobs that might take them over this eligibility cliff. It's a really perverse incentive. The second thing, the second really critical thing, that these exchanges will do is eliminate that cliff so that people don't have to choose between keeping their health insurance and taking a job that would otherwise take them over that threshold. Just like today, individuals and families that earn too much to qualify for MaineCare will need to turn to the private health insurance market to find coverage. What will be different in the future, however, is that these individuals and families will be eligible for premium subsidies that decline with income. If you earn just more than the MaineCare eligibility line, you would get a subsidy to buy private health insurance and this subsidy amount would decline with income, phasing out entirely at higher incomes. The exchange will play a critical role in administering these subsidies in the private health insurance market. It means that people who earn just too much to qualify for MaineCare, which is a lot of working people in Maine, for the first time will have access to private health insurance products that they can actually afford to buy. It is the exchange that will make this possible. Whatever you think about the individual mandate and the Affordable Care Act or other provisions of the Act, please consider seriously the value of setting up this exchange. It is in my judgment our absolute best hope for obtaining more affordable private health insurance coverage for Maine citizens. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you Mr. President. Ladies and gentlemen, I rise in support of L.D. 1498 and in opposition to the current motion. There is no denying that the United States has a healthcare crisis. That crisis is amplified in Maine due to our aging population, our high percentage of people with disabilities,

the rural nature of our state, and, probably most of all, by Maine's low median income. All those challenges apply in my district as well. Right now in Maine too many low and middle class families have nowhere to turn if they can't afford or lose the coverage offered by their employer. From 2000 to 2009 the number of Maine children covered exclusively by their parent's employer's insurance decreased from 59% to 49% and 10% of Maine's people are currently uninsured. Far more have only catastrophic health insurance, which they pay dearly for, but still have to pay the cost for actually healthcare because the deductible is so high. This Legislature tried to address the high cost of health insurance in Maine with the passage of L.D. 1333, or P.L. 90 as it is known. Thus far P.L. 90 has shifted costs from young adults to those who are middle aged and older, from Southern Maine to Downeast and Northern areas, resulting in winners and losers. It hasn't solved our insurance cost problem. It hasn't solved the problem with people being able to afford insurance. It's just shifted it around. Who can afford and who can't afford health insurance. The people of Maine have entrusted their futures to us and we need to do more. We owe it to them to act in their best interest. L.D. 1498, before us now, will help create a win-win for all Maine people. Since 2010, a joint committee comprised of legislators, special advisory committee, private businesses, providers, and insurers, as well as employees of the Bureau of Insurance, Health and Human Services, and the Dirigo Health Agency, have made recommendations for how to implement a Maine exchange. The information gathered and synthesized has been gone through and the result is L.D. 1498, the only bill before us that will seize the opportunity to create a Maine exchange for Maine people. The Maine exchange will guarantee individuals a secure place to go to get quality, competitively priced health plans if they lose their job or if they want to start their own business. Low and middle income families purchasing health insurance in the exchange will be eligible for subsidies, making health insurance within reach for thousands more Maine people.

I want to thank a fellow Senator for bringing up the point about where MaineCare leaves off. In fact, I had a businessman in my own district, a small business, who spoke to me one day and said his best employee had to refuse a raise. She was a single parent and has a son. She qualified for MaineCare, but if she took the raise she no longer would. She could not afford health insurance for herself and her son. I have a great example in my own district from a businessman I know. It is exactly the problem that you raised. We need to provide an opportunity for people to improve their lives and, as they do so, for the cost of health coverage to not be the reason to not improve their lives. Through the exchange and these subsidies on a sliding scale, there is a transition provided. It starts where MaineCare ends. It provides people an opportunity to both work and have health coverage and an opportunity to better themselves and get off MaineCare instead of a reason not to. In addition, an exchange will provide small businesses with apples to apples comparisons of health benefit plans. It will enable small businesses to find the best coverage at the most affordable price without spending hours trying to distill various policies. It would be administered and overseen by knowledgeable Maine people who understand the particular challenges we face in Maine, including a disproportionate number of seasonal businesses where both business owners and employees struggle to cobble together continuous insurance coverage. Again, a small businessperson in my own district, operating a B&B, a tourism related business, works really hard to make ends meet and balance the books and

keep the business running. In spite of that fact, she is doing what she knows to be the right thing by keeping a woman that she employs on salary year round, even though business is much more slack in the wintertime. The woman does a good job and, because she is supporting a child, she is the only breadwinner in the family. She's having a hard time and the cost of healthcare is a big part of that. The exchange would help small businesses like hers. It would provide, starting in 2014, funding for matching money for small businesses offering health insurance coverage to their employees. It's through the exchange that capability is offered. This is what Maine Health, Lincoln County Healthcare in my own district, a healthcare provider recognized in this Legislature for the nationally recognized quality of their healthcare, has to say about a Maine exchange. Maine Health, Lincoln County Healthcare believes that a state run exchange will allow for the flexibility needed to best serve Maine people. If we turn over that important function to the federal government we lose our ability to set the rules of the game for ourselves to best meet the unique needs of Maine people.

Some would argue that the state should wait until the U.S. Supreme Court issues its opinion on the Patient Protection and Affordable Care Act in June. The problem with this approach is that it will be too late. If we want a Maine exchange for Maine people, one that provides seamless coverage that will result in better quality outcomes, a healthier state, and therefore a more productive workforce, we should fulfill our obligations to the people of Maine by passing L.D. 1498 and creating a Maine exchange. If we don't act by January 1, 2013 the federal government will seize control and run Maine's exchange. There has also been talk that once the Supreme Court issues its ruling a Special Session of the Maine Legislature could be called in to session. This additional expense of a Special Session, especially in these tight financial times, isn't necessary. We shouldn't kick the can down the road. Everything we need to know is before us. We've been studying Maine's current infrastructure and what is needed in order to implement an exchange for the past three years. We know what needs to be done. We have a federal planning grant in the amount of \$5.8 million that is paying for Maine to move forward with its own exchange. We have an opportunity to join with 12 other states and the District of Columbia that have already created state exchanges. We have a bill before us that creates an exchange consistent with the final federal regulations. The time to act is now. I urge you to oppose the pending motion.

On motion by Senator **ALFOND** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Somerset, Senator Whittemore to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#461)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PLOWMAN, RECTOR, ROSEN, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT - KEVIN L. RAYE

NAYS: Senators: ALFOND, BARTLETT, BRANNIGAN, CRAVEN, DIAMOND, DILL, GERZOFSKY, GOODALL, HILL, HOBBS, JOHNSON, PATRICK, SAVIELLO, SCHNEIDER, SULLIVAN, WOODBURY

EXCUSED: Senator: JACKSON

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **WHITTEMORE** of Somerset to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED.**

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Joint Order

An Expression of Legislative Sentiment recognizing:

Frank Johnson, of Augusta, on the occasion of his retirement as Executive Director of the Employee Health and Benefits division of the Department of Administrative and Financial Services. Mr. Johnson has worked for the State for 45 years, beginning as a Clerical Aide in the Department of Education. He continued his career in the Department of Transportation then in the Department of Labor where, in 1981, he started working in the Office Personnel/Employee Relations as Assistant to the Commissioner. In 1986, Mr. Johnson became Director of the Bureau of Employee Health. In 1996, he became Acting Executive Director of Health Insurance and later that year Executive Director of Employee Health and Benefits. We send Mr. Johnson our appreciation for his many years of dedicated service to the State and we congratulate him on his retirement; HLS 1117

Comes from the House, **READ** and **PASSED.**

READ.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President. I just don't think we should allow the retirement of Frank Johnson to go unmentioned. This is a man who has dedicated himself to the healthcare of the State of Maine. He's done more, not only for State workers but to gathering different groups together, to help

promote good policy. He's been a wonderful part of the State of Maine workforce and also a citizen of the state. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you Mr. President. Men and women of the Senate, I, too, want to rise and thank Frank Johnson. His work, especially with the State Employee's Health Plan, is absolutely amazing. When you looked at what was happening before and some of the changes that were made, I also want to thank him because actually a lot of those changes were what we were able to model P.L. 90 after. I think he did a tremendous service to the people of Maine.

On motion by Senator **KATZ** of Kennebec, **TABLED** until Later in Today's Session, pending **PASSAGE**, in concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act To Provide Incentives To Foster Economic Growth and Build Infrastructure in the State

H.P. 310 L.D. 384
(H "A" H-909 to C "A" H-895)

On motion by Senator **ROSEN** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Emergency Resolve

Resolve, Regarding Legislative Review of Chapter 30: Maine Uniform Accounting and Auditing Practices for Community Agencies, a Major Substantive Rule of the Department of Health and Human Services

H.P. 1404 L.D. 1902
(C "A" H-914)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Acts

An Act To Standardize the Definition of "Independent Contractor"
H.P. 960 L.D. 1314
(H "B" H-897; H "C" H-916
to C "A" H-832)

An Act To Change Document Filing Fees for County Registries of Deeds
H.P. 1137 L.D. 1550
(C "A" H-711; H "A" H-851)

An Act To Expand Educational Opportunities for Maine Students
H.P. 1372 L.D. 1854
(H "B" H-901 to C "A" H-885)

An Act To Restore Departmental Management over Costs of State-paid Child Care
S.P. 671 L.D. 1894
(C "A" S-515)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

An Act Regarding the Distribution and Sale of Spirits
H.P. 664 L.D. 905
(C "A" H-915)

On motion by Senator **ROSEN** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

An Act To Prepare Maine People for the Future Economy
S.P. 439 L.D. 1422
(S "C" S-529 to C "A" S-477)

On motion by Senator **ROSEN** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

An Act To Limit MaineCare Reimbursement for Methadone Treatment
H.P. 1361 L.D. 1840
(C "A" H-912)

On motion by Senator **ROSEN** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Resolve

Resolve, To Authorize the Legislature To Contract for an Independent Review To Evaluate the Essential Programs and Services Funding Act

H.P. 702 L.D. 958
(C "B" H-920)

On motion by Senator **ROSEN** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **FINAL PASSAGE**, in concurrence.

Acts

An Act To Encourage Enrollment in Electrical Education Programs

H.P. 1353 L.D. 1833
(H "A" H-871 to C "B" H-837)

An Act To Amend the Liquor Laws of the State

S.P. 667 L.D. 1889
(C "A" S-532)

PASSED TO BE ENACTED and having been signed by the President were presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Senate at Ease.

Senate called to order by the President.

An Act To Reform Land Use Planning in the Unorganized Territory

H.P. 1325 L.D. 1798
(H "A" H-926 to C "A" H-918)

On motion by Senator **ROSEN** of Hancock, **TABLED** until Later in Today's Session, pending **ENACTMENT**, in concurrence.

Senate at Ease.

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

An Act To Reform Land Use Planning in the Unorganized Territory

H.P. 1325 L.D. 1798
(H "A" H-926 to C "A" H-918)

Tabled - April 10, 2012, by Senator **ROSEN** of Hancock

Pending - **ENACTMENT**, in concurrence

(In Senate, April 9, 2012, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-918) AS AMENDED BY HOUSE AMENDMENT "A" (H-926)** thereto, in concurrence.)

(In House, April 10, 2012, **PASSED TO BE ENACTED**.)

On motion by Senator **ROSEN** of Hancock, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Senator **COURTNEY** of York was granted unanimous consent to address the Senate off the Record.

Senator **ALFOND** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **ROSEN** of Hancock was granted unanimous consent to address the Senate off the Record.

All matters thus acted upon were ordered sent down forthwith for concurrence.

RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

The President requested the Sergeant-At-Arms escort the Senator from Hancock, Senator **LANGLEY** to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the floor.

The Senate called to order by President Pro Tem **BRIAN D. LANGLEY** of Hancock County.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act To Restructure the Department of Health and Human Services"

S.P. 664 L.D. 1887
(C "A" S-533)

Tabled - April 10, 2012, by Senator **ALFOND** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, April 10, 2012, **READ A SECOND TIME.**)

On motion by Senator **CRAVEN** of Androscoggin, the Senate **RECONSIDERED** whereby it **ADOPTED** Committee Amendment "A" (S-533).

On further motion by same Senator, Senate Amendment "A" (S-541) to Committee Amendment "A" (S-533) **READ**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Craven.

Senator **CRAVEN:** Thank you Mr. President. We just had a long conversation in my caucus with members of the department about this bill. I'm still a little wound up about it. There are a few things that I would like to say about the bill. Number one, certainly there are some very good measures in this legislation that need to be initiated. The process that brought this bill to committee is still very, very disturbing to me. We received a bill, a very large bill, on March 19th, I think it was, and it was advertised for a public hearing on the internet. The public hearing was held on the 21st. Really there was no time to adequately advertise this enormous bill that has an enormous impact on people in the state of Maine. That was my biggest objection to the bill, the process at this late stage and that the public was not invited to have input. We have some State employees that came because they got an e-mail from the SEIU and a few other people, mostly advocates or lobbyists, that came to speak towards the bill. I wanted that on the record as being one of my biggest objections. My second discomfort and objection to this bill is the elimination of 21 intensive case managers that work with people in the community and in the jails and in the prison with people who have mental health issues, chronic and persistent mental health needs, and often have criminal backgrounds. I know in Lewiston alone we have many people who have served their time after committing violent crimes and are living on the streets. They are not all living on the streets, some of them probably are, but they are free on the streets and need the supervision of intensive case managers. The department retained some State employed intensive case managers to work in the jails and I am guessing in the prison. Now they are going to privatize case management to violent people or people with persistent mental health needs to workers that they don't know, that they don't trust, that they, I'm sure, have less skills and less experience than the people that have been doing this for a long time. A person that came to testify in front of us talked about the tragedy that happened 16 years ago that

Maine faced and was rocked to its core by the attack on four nuns in Waterville that left two of them dead and the other two injured very, very badly. This tragedy led the State of Maine to establish emergency mental health intervention services in our communities. The State of Maine specifically created a statewide network of intensive case managers, front line professionals, who go out into the communities at all hours of the day and night. They provide a safety net for some of our most vulnerable and potentially dangerous members of our communities. John Morris, now Commissioner of the Maine Department of Public Safety, was Waterville's police chief in 1996. On the 10th anniversary of the attack of the nuns he told the press that these intensive case managers, without a doubt, saved lives in his city. I know that when this tragedy happened that this person's mother had asked for help during the weekend on numerous occasions from private providers and there was nobody to reach out or to help this man or to keep the nuns safe that suffered so egregiously. I remember that and I had no interest in politics at the time, but I remember how sad I was, such peaceful, wonderful women in their home being attacked and killed when they shouldn't have been. Somebody should have been able to mind and take care of this person who had an illness. In our committee we had workers and we had several sheriffs that came to oppose this elimination. We had others in the community that came to speak in opposition to this particular measure in this bill. There are no savings here. I'm sure down the road there is probably going to be savings because we won't have to pay for pensions or we won't have to pay for raises for those people that have been laid off. We will continue to have to pay lower wages and have lesser skilled folks to go out in the community and oversee the individuals that are just out in the street, not having adequate supervision.

Now I'm going to go on to talk about the Office of Advocacy. I worked in the field of intellectual disabilities for 25 years. The range of needs for people with intellectual disabilities goes from very, very little to very, very intense needs. The people that were originally hired to do these jobs happened because of the Pineland Consent Decree. The court master had picked them personally because of their background and because of their knowledge of the kind of work that they were going to be doing. They spent many, many years working with people and working with families and have gained their trust. They are now going to be set aside and the job will be taken over by somebody who really has a different value system. One mother came in front of us to tell us about her son who has Aspergers. He is clearly high functioning intellectually, but emotionally he has a lot of needs and he strikes out and he's dangerous to himself and dangerous to others. She had gone, I think, for several visits to the Disability Rights Center and he really never received the care that he needed because the care that he needed was much more restrictive than their belief system. She did finally get relief and he got to be able to live in a crisis house until he was stabilized and until his behavioral issues changed. He's now earning, or almost ready to graduate with a four year degree from the university. They are very, very proud of him. Another problem with making this change is that there budget is approximately \$600,000 a year for seven workers that are spread out all over the state of Maine so that people can have access to their services. Forty percent of the \$600,000 is paid for by a draw down from the federal government. That amounts to \$270,000 a year. When this is privatized there will be no opportunity for the draw down and we're not sure whether or not the Disability Rights Center is going to be able to hire seven people with the allocation

that they are going to get. These are very critical times for people and families who have children with developmental disabilities. We now have almost 1,000 people waiting on our waiting list for services, whether they be work services, residential services, and our crisis services. They are absolutely bursting at the seams because of the lack of services for people with developmental disabilities. I am very, very worried about such changes at such critical times as these.

There are other items in this bill that I think are also very detrimental and hard, very difficult to implement. They may or may not be difficult to implement, but we haven't gotten any kind of information about how the implementation is going to take place. This is very worrisome to me as well. I think that young people, for example, with disabilities have very, very different needs than older people who have Alzheimer's or Parkinson's or other kinds of diseases where they need personal care. Down the road I will be looking forward to hearing about what those services are going to look like. That includes children's services where all of the workers are being congregated centrally and people are being drawn in from around the state and they are going to be centralized in an office. To me, it would seem to be counterproductive to have people congregated in one place as opposed to being out in the community where people have more availability to them. I've lost my train of thought so I'm going to sit down and find my notes and will ask at a later time to continue my remarks. Thank you, Mr. President.

Senator **COURTNEY** of York moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-541) to Committee Amendment "A" (S-533).

On further motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you Mr. President. Men and women of the Senate, I have to change my remarks a little bit to go along with the new one, Indefinitely Postpone. However, I think I can do this. I'm going to try. I am in opposition to this postponement because this amendment makes a terrible, terrible horrible bill, just a terrible bill. During the lunch break we had an OPEGA meeting. In the OPEGA meeting we discussed at length an investigation of DHHS. One was over the numbers, bad computers. It's going to be rapid so that we can get some numbers. Then we talked in particular afterwards for the possibility of a longer study, an investigation, over communication; the lack of communication among the department, the lack of communication with providers and the department, and the lack of communication with MaineCare recipients and the department. Unanimously, we agreed that needed to happen. Now I stand here. First of all, I would ask every Senator by nodding their heads, which I know won't happen. Have you read all 49 pages of this restructuring bill? I see one on the Appropriations nodding his head. Thank you, Senator Rosen. Forty-nine pages over the largest part of the budget over DHHS. We have tried for three different Administrations to get our hands around, our arms and our body around, our whole Legislature around DHHS and make it effective, efficient, and serve the people who it is expected to

serve. Now, with one public hearing, I went to that same caucus and I must say that Senator Craven from Androscoggin did a better job than I did in controlling her concern. First of all, we were given a statement and a list of key elements of what's going on from the department. It lists all the people who testified in favor. Not one person testified against. I asked, "Tell me, did no one testify against this?" Yes, there were some people who testified against it. Where are they? Who are they? You're supposed to be trying to sell us on this. By the way the Commissioner was invited but we didn't get the Commissioner. I was told he wasn't there. You wonder why the Legislature has a problem with trusting numbers. They bring the very material here to tell us about something and it's missing the other side. This is called propaganda. This is not what you should be filling up on and making your decisions over something that is so affects every single constituent in your district. Forty-nine pages brought in from March 19th after a disaster within the DHHS to begin with appropriations and money and people getting services that they weren't supposed to. I understand computers. Quite frankly, I hate them. I can't even make my Facebook, I guess it is FB, work correctly. The fact remains, people, this is not Facebook. This is not a woman that is too old to teach an old dog new tricks. This is about a department that deals with human beings; our mentally ill and our mentally challenged. We have here a 49 page bill that's going to be shoved through here. In fact, we were told, when the question was asked, that we aren't pulling this bill, we aren't doing anything, we have the votes. I'm well aware that my standing up does no good, but the arrogance of a 49 page bill coming before this Legislature when we're supposed to be setting a policy and that we are going to vote on a policy that by, lack of nodding of heads, you have not even read, by a department that has misled you in a budget, that you have asked the Oversight Government Committee to do investigations on it, and we're going to pass it. A simple, simple amendment that turns that bill into a terrible bill, but better, we even stood up immediately and indefinitely postponed. We used to wait until the dark of night to our bad business. We're so brave and arrogant now we can do it right here, broad daylight. This is a serious bill. When you go home you look at those people, those parents who have children with Down Syndrome. Most Asperger's children are extremely bright. They are on the other end of spectrum. They have no social cues and they have sense of how to get along with people. A 49 page bill, the waning hours, you haven't looked at it, they gave you the wrong numbers, but we're going to make it all right. We're going to make this committee, this whole department, right by simply studying this bill and restructuring. I suggest that this bill go back and has a real light of day and has some real input from legislators, those of you who are duly elected, not the bureaucracy. When questioned in my caucus, we were told the Chief Executive directed them to restructure this. That was from the department. I'm going to vote against Indefinitely Postponing. I wish I could vote and have the other vote in front of me to not vote on this bill at all. There is no need. Why does it need to be done now when we have major budget problems in front of us? It needs the insight of those people that provide the services and everything else. We talk about doing something from the top down. Ladies and gentlemen, as elected officials, you were totally cut out of this. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Craven.

Senator **CRAVEN**: Thank you Mr. President. I remembered what I forgot to say. This amendment restores 21 positions in the mental health community services program and restores four positions associated with the restructuring of the Department of Health and Human Services Office of Substance Abuse and Office of Adult Mental Health. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion by the Senator from York, Senator Courtney to Indefinitely Postpone Senate Amendment "A" (S-541) to Committee Amendment "A" (S-533). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#462)

YEAS: Senators: COLLINS, COURTNEY, FARNHAM, HASTINGS, KATZ, MARTIN, MASON, MCCORMICK, PLOWMAN, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, THIBODEAU, THOMAS, WHITTEMORE, THE PRESIDENT PRO TEM - BRIAN D. LANGLEY

NAYS: Senators: ALFOND, BARTLETT, CRAVEN, DIAMOND, DILL, GERZOFISKY, GOODALL, HILL, HOBBS, JOHNSON, PATRICK, SCHNEIDER, SULLIVAN, WOODBURY

ABSENT: Senator: BRANNIGAN

EXCUSED: Senator: JACKSON

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **COURTNEY** of York to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-541) to Committee Amendment "A" (S-533), **PREVAILED**.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **McCORMICK**: Thank you Mr. President. Men and women of the Senate, I can confess that when I first heard of this bill, restructuring bill, coming before the committee I was a little apprehensive myself as me and most people are resistant to change. It's not something we can buy into easily. I'm a person who, for the past eight years, has eaten at the same restaurant every Friday night. They don't even ask me what I want any more because I order the same thing every time I go. I'm waiting for them to assign me a specific table, but I haven't gotten that far yet. I understand the resistance to make change. After hearing this bill, through the public hearing and reading it and talking to the department members, this bill really eliminates or reduces nothing. There is no service reduction or elimination in this bill. In fact, this bill is all about providing better services to clients. This bill streamlines and makes more efficient the delivery of services to clients and the communication lines between supervisors and frontline workers is enhanced. It establishes a system where inter-related services are combined. I was struck

by those who testified in support of this bill. They included the Disability Rights Center, the Executive Director of Alpha One, the Director of the Maine Developmental Disabilities Council, Legal Services for the Elderly, Maine Association of Substance Abuse Providers, Long Term Care Ombudsmen, Maine Behavioral Health Association, Maine Association of Mental Health Providers, and others. In response to the Senator from York, Senator Sullivan, this was not my handout that went out there, so I don't know why it only listed those in favor. I believe it's because of the significance of those people who testified in favor. Basically, every client advocacy group affected by this restructuring bill was in support. I can tell you, and many of you know that is a rare occurrence on any committee, so that was the significance of the list. This is my tenth year in the Legislature. We've had a supplemental budget nearly every year. Most of the time it involves DHHS. Since I live where many the employees of DHHS reside, each I year I would get some calls telling me how to really fix the problem at DHHS. Most of them were, "Eliminate some of the middle level managers and put more people on the front lines." I'm proud to say that this is exactly what this bill will do, so I urge your support of the pending motion to pass this bill. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Senator from Androscoggin, Senator Craven, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **CRAVEN**: Thank you Mr. President. I just wanted to point out that people of significance testified in opposition to this bill. We had Richard Estabrook. We had people from the Maine State Employees. They are very important. We had intensive case managers. We had Petrocelli, who is the litigator for the Pineland Consent Decree. Even though I see Justice Wathen's name on the support column, I would beg to differ that he said anything in support of this bill, actually. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT**: Thank you Mr. President. I had not intended to speak on this, but there are a couple of points that I think really strike me as we debate this. I, for one, think that it is entirely appropriate to look at structural changes in the Department of Human Services. I think there is no question that there are problems in the way services are provided. They ought to be streamlined and be made more effective. The concern I have is in part the process that this was rushed through so fast, without a careful assessment to make sure that what is being promised is deliverable. Secondly, we've heard that no services will be cut. That's according to the department. We're supposed to trust them on that. Well, we know that there is going to be federal dollars, federal funding, lost to the tune of \$270,000 with no explanation as to how we're providing that same level of service at the reduced rate. We also know from experience that when this particular department says to just trust them on the numbers that they have a habit of being wrong, at least on one other very significant important debate this session. When it comes down to trust that they will provide the same level of service, when the committee has not had the time to really delve into the details and to understand whether the same level of services can, in fact, be provided, I find that troubling, at least

coming from this department at this particular moment in history. I would urge us to slow this down, figure out if the numbers are in fact accurate, and make sure that the same level of services can be provided. If they can, great. Let's move forward. We all want to improve service delivery. We all want to improve efficiency. I'm not willing to do it with a promise from a department to just trust their numbers. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER:** Thank you Mr. President. Men and women of the Senate, the reason why I rise is that once again I have deep concerns about the people of this state having their chance to weigh in on this legislation. This is a huge change, and series of changes, within a department that are being proposed. My concern is when I hear that the committee of jurisdiction receives a bill on the 19th of March and then has a public hearing on it on the 21st, it's only a couple of days. How do the people of the state even know that this is occurring? Once again we're faced with this really big dilemma because, at least from my perspective, I would say that this is a department where it is clear that they are in need of change. They are in need of figuring out ways to do things more effectively, more efficiently, in a more customer friendly or provider friendly way, and yet I feel it's my obligation not to support it because it's a rush job once again. We had a nice discussion with a couple of people from the department and I really appreciated having that half an hour discussion with them about something that they had been working on, by their own account, for many months. Yet we were provided absolutely no information, none whatsoever, about how they documented it, how they came from one place to another, or who they engaged in the discussions. There was no specific information provided to us and to reaffirm how they came to make the decisions that they did in the piece of legislation. This is a huge concern to me. We're knocking out the citizens of this state in order to weigh in on this legislation. We just put up a wall to them. That's problematic for me. I just think that it's important that that goes out. I mentioned it on a program this morning and clearly the people in this radio program weren't aware of this massive piece of legislation being brought forward, at the end of an emergency session. I would say, is this really an emergency? I think not. Is it something that needs to be worked on? I absolutely concur with those people who spoke before who believe, like I do, that we need to improve things at the Department of Health and Human Services. I don't know that you would find a disagreement about that. How do you get there so you don't end up making mistakes? We know there are problems with the computer system already. What's to ensure that we don't end up creating more problems than we have right now? That is the concern. I have so many questions about who we've engaged in the process and I haven't even had time to pick up a phone and talk to people about this. What are their thoughts? I hear from providers constantly about all sorts of issues with regards to getting paid. Do I think things are working well now? No, but I don't want to go from one bad system to another because we did it in a rushed fashion. I have deep reservations about this. If it passes and it goes into being implemented and then there are problems, are the people who support it going to be the people who this will come back on because it is a rush job and because there was not the public

input that should have been had on this piece of legislation. It's incredibly disappointing. Thank you.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Farnham.

Senator **FARNHAM:** Thank you Mr. President. As the third Senator on the Health and Human Services Committee, I'd like to help you understand how the people in the state would know that this bill was out there or that this bill was in the making. How they would know is because Commissioner Mayhew was out in our communities. She was in our communities. She went to our communities. She listened. She listened. Right after Commissioner Mayhew was appointed her very first order of business was a commitment to go out to our communities and listen. She listened to staff. She listened to employees. She listened to the former employees. She listened to folks providing services. She also listened to the folks receiving the services. As a result of listening, that's how we have the restructuring plan before us today. She worked with many people who are interested in improving our services for the citizens who need them in the state of Maine. We have all heard of reasons that these improvements need to be made. By listening and working with many people who care and many people who want these services and the delivery of these services improved, that is why and that is how this has come before us today. Thank goodness it's not taking any more time because many of the improvements suggested in this bill are much needed and are very much supported by the very people who work together, and now want to work better together, to deliver these services. I thank Commissioner Mayhew and her staff for putting forth this effort to have this department come together better to deliver these services. I urge support for this restructuring and for this bill that is before us today.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Cumberland, Senator Alfond.

Senator **ALFOND:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise also in opposition to the current motion. There are a bunch of things that have been said that I think need to be responded to and also just some things that I learned in the Education Committee. Commissioner Bowen also took a road show. He went around the state and he did I'm sure as much listening as Commissioner Mayhew. He then went with this staff and took many months to create a strategic vision for the Department of Education. That's a 20 page vision that he then went to the Education Committee and started discussing, started thinking about, and then started moving on some small pieces of that vision, knowing that that vision was going to take a couple of years. When we had our very nice conversation with the department this afternoon, I asked the simple question; do you have a guiding document, a vision for the Department of Health and Human Services? The answer was; no, we do not have a vision. We've got some work charts. We've got some flow charts. They don't have a vision. That's troubling to me, that we're going to start restructuring major parts of the Department of Health and Human Services when we don't know where we're going. There have been many big bills that have been debated in the 125th. A lot of them have taken enormous amounts of time because they all needed enormous amounts of time. I am thinking of a concept bill that is still not out of committee, that has

taken three plus weeks to get out of committee because it needed that deliberation. It needed that public input. It needed legislative help. I would suggest that this bill also needed that same type of scrutiny and, sadly, it got bulldozed through committee and now is here on the Senate floor. This idea that no one is going to lose any services, the fact of the matter, and nothing against the Senator who suggested it because I'm sure he truly means it and I know he does because he cares about people, is that that is just impossible. It's just impossible. When you are talking about a complex reorganization, of moving so many people around, there are going to be clients, there are going to be providers, and there are going to be people who are lost in this process. The Senator from Cumberland talked about the Office of Advocacy, the idea that we're going to lose 45% of the funding, that's \$270,000. We're then going to use, I guess, the remaining money and hire a non-profit to do the private services. That, in itself, might be a fine route to take. In fact, the entity that could take up these services I have a lot of respect for. However, let's just play this out. You lose \$270,000. You then are going to put out a contract, which no one knows what that contract actually says, what services they are going to provide. They are going to have \$270,000 less dollars and they've got to go out and work with the same amount of clients, provide the same amount of services, and get the same amount of results. Come on, that doesn't even pass the straight face test. There are going to be so many people left behind because of this reorganization that our phones will be ringing all Summer, all Fall, and when we get back here, for those of us that do, next January. The fact is that the Department of Health and Human Services is putting out four pages or six pages or I guess five pages of information for us all to look at as we assess this reorganization, and two of the pages are just shocking to me. These are some flow charts. You would think that the Department of Health and Human Services would actually have their own flow charts that they would be presenting, some things that they actually did in-house. No. The department actually has been using, which almost makes me laugh, are documents that I have been using. I have been using these same documents to try to reform CDS. These documents were put together by the Maine Developmental Disabilities Council. These are not even documents created by the Department of Health and Human Services. They are pushing around other people's work, saying, "Look, this is what we have and this is what we're going to get to, but we actually have no plans that we actually can show you. We have no vision for the department, but just trust us. Trust us that we actually did this bill properly, by actually taking the time in committee." We know that didn't happen. "Trust us that no client will be left behind." We know that can't possibly happen. "Trust us that there will be savings." We'll see. There are just so many holes in this bill that it's frustrating that it's here. This bill should be back in committee. It should be turned into a Resolve. It should be studied all Summer. It should be done properly. It should be teed up for the 126th, where we can get bi-partisan support because we all know changes are needed. This work that we have in front of us is incomplete. It doesn't have to be this way. There is no urgency to pass this right now, but the Executive and those who voted for this on the Committee on Health and Human Services decided that this is ready for prime time. This is not ready for prime time, Mr. President, and I urge this Body to do the right thing and defeat this motion and then accept the motion to just return this bill and all its accompanying papers back to the committee of jurisdiction. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Hancock, Senator Rosen.

Senator **ROSEN:** Thank you Mr. President. Men and women of the Senate, I'd like to join some of my fellow members and colleagues on the Senate that, like myself, do not sit on the Health and Human Services Committee to chime in with my comments from a couple of different points of view. When Governor Baldacci was elected to his first term in 2003, the second year, I believe and I think there are people here who can correct me if my dates are wrong, but in 2004 he proposed the merger of the Department of Human Services and the BDS, the Bureau of Developmental Services. Two very different agencies, dealing with two very different populations, with two very different cultures. He proposed merging the two largest agencies in the state government, creating what at the time was described as a mega merger. An enormous undertaking. I had the opportunity to serve as a member of the Health and Human Services Committee when we were dealing with the merger and dealing with the new development of the new organization. We started that process. It was very involved. Very complicated. It became clear that there were two very different cultures that were not particularly happy in many ways with coming together. A year later, in 2005, the computer system crashed and failed. We, as a state and as the new DHHS, pretty much stopped dead in our tracks of completing and finalizing and following through with the remaining pieces of that initial merger. We made significant progress, but with the failure of the billing system any more significant work around that effort stopped. If you look at, even today in 2012, our budget documents, the way our budget documents that build our biennial budgets are designed, you still see account lines Former DHS and Former DDS, still carrying forth that old legacy structure as evidence of how that final work has never been completed. For five years, from 2005 to 2010, we were in a suspended mode. I'm not saying everything stopped, but pretty much any significant changes had to. In the Fall of 2010, people were talking a lot about the new system going live and the new system finally went live and became certified. For me, based on that history, this seems like picking up an effort to resume that unfinished work and to continue it and to move ahead and finalize what had been started back in 2004. To me, the report seems logical and the effort that has been put forward does. I know I'm hearing a certain amount of sort of the old friction that's existed for a long, long time in the provider community when you have State services in the Department of Health and Human Services that are provided by State employees and community providers. There has always been a rub there. I think I'm picking up a little bit of that in some of the comments that we're hearing. I think we've all heard that to a certain extent. I think the amendment, and when I look at what the committee did, particularly with the amended version, keeps as departmental personnel the Intensive Case Managers who are connected to the correctional facilities, which I believe, again not sitting on the committee, was a reflection of some of the concerns that may have been expressed by the Court Master and others. I think that there was an effort here and there was a modification of the original proposal to make sure that those case managers do stay on staff because those particular populations, at least in the determination of the policy committee, should receive services directly from the departmental employees. Those are just a few thoughts and comments. I haven't yet heard any specificity to

which elements of the bill will create some of these dire outcomes that are being projected. I just think this is a pick up and continuation of a lot of work that was laid down and left unfinished until the department had the capacity to resume that effort. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator McCormick.

Senator **McCORMICK:** Thank you Mr. President. Men and women of the Senate, in response to some testimony I heard, I would like to point out to the Body that this is not a Majority Party rushing something through. I'd just like to point out that the Majority Committee Report was a bi-partisan effort and support. Thank you, Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Androscoggin, Senator Craven.

Senator **CRAVEN:** Thank you Mr. President. Going back to the Intensive Case Managers, which my amendment addressed, I'd really like to say a few more things about that. I think that the Intensive Case Managers that were retained for jails and prisons is fine and I'm very happy about that, but there are many, many people, especially in my community which is a service community, that have mental health needs who have criminal backgrounds and are free. They are free in the community. The Intensive Case Managers employed by the State of Maine are the only people who have proven they can work with a lot of those populations. As public servants, Intensive Case Managers do their work with the highest level of accountability to the people of Maine. Although Maine DHHS believes it can write a contract that is so tight that the performance base that the Intensive Case Managers perform would continue via private contractors, retired Chief Justice Daniel Wathen testified before the Health and Human Services Committee that it is difficult to write a contract that details everything the Intensive Case Managers do. He relayed a story about an individual in Lewiston who had to live in a motel for a week. The Intensive Case Manager was ordered to stay with him because it was the only safe place for him to be at that time. I agree with Justice Wathen. I think that it's a big mistake to change our Intensive Case Managers and have that privatized in the community. When I really look at it, I think people can do less damage when they are in jail. It may be a service to the person being served, but it's not a service to people's safety in the community to remove the Intensive Case Managers from their community work. Thank you, Mr. President.

Committee Amendment "A" (S-533) **ADOPTED.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-533).

Ordered sent down forthwith for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Strengthen the State's Ability To Investigate and Prosecute Misuse of Public Benefits"
S.P. 665 L.D. 1888

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-542).**

Signed:

Senators:

McCORMICK of Kennebec
FARNHAM of Penobscot

Representatives:

FOSEL of Alna
MALABY of Hancock
O'CONNOR of Berwick
SANDERSON of Chelsea
SIROCKI of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (S-543).**

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

STRANG BURGESS of Cumberland
EVES of North Berwick
PETERSON of Rumford
SANBORN of Gorham
STUCKEY of Portland

Reports **READ.**

On motion by Senator **MCCORMICK** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-542)** Report **ACCEPTED.**

READ ONCE.

Committee Amendment "A" (S-542) **READ** and **ADOPTED.**

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED.**

Ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (4/9/12) Assigned matter:

HOUSE REPORTS -from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Establish the Department of Agriculture, Conservation and Forestry" (EMERGENCY)

H.P. 1350 L.D. 1830

Report "**A**" - Ought to Pass as Amended by Committee Amendment "**A**" (H-876) (3 members)

Report "**B**" - Ought Not to Pass (3 members)

Report "**C**" - Ought to Pass as Amended by Committee Amendment "**B**" (H-877) (2 members)

Tabled - April 9, 2012, by Senator **COURTNEY** of York

Pending - motion by Senator **SHERMAN** of Aroostook to **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-876)**, in concurrence (Roll Call Ordered)

(In House, April 5, 2012, Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-876) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-876) AS AMENDED BY HOUSE AMENDMENT "C" (H-910)** thereto.)

(In Senate, April 9, 2012, Reports **READ**.)

Senator **ALFOND** of Cumberland requested and received leave of the Senate to withdraw his request for a Roll Call.

On motion by Senator **SHERMAN** of Aroostook, Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-876) ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-876) **READ**.

House Amendment "C" (H-910) to Committee Amendment "A" (H-876) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-876) as Amended by House Amendment "C" (H-910) thereto, **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-876) AS AMENDED BY HOUSE AMENDMENT "C" (H-910) thereto, in concurrence.

Senate at Ease.

Senate called to order by President Pro Tem **BRIAN D. LANGLEY** of Hancock County

All matters thus acted upon were ordered sent down forthwith for concurrence.

Senator **RAYE** of Washington was granted unanimous consent to address the Senate off the Record.

Senator **PLOWMAN** of Penobscot was granted unanimous consent to address the Senate off the Record.

Senator **DIAMOND** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **ALFOND** of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator **GERZOFSKY** of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator **COURTNEY** of York, **ADJOURNED** to Wednesday, April 11, 2012, at 10:00 in the morning.